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Scott W. Brim, Reg. No. 51,500
Name of Applicant, Assignee or Registered Representative

Signature — December 11, 2008
Date

Our Case No. 8285/669

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Gloria Jean Navarre et al.	Examiner: Kim, Paul
Serial No.:	10/767,411	Group Art Unit No.: 2161
Filing Date:	January 27, 2004	
For:	System and Method for Executing a Request from a Client Application	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandra, VA 22313-1450

Dear Sir:

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal

The review is requested for the reasons stated on the attached sheets. No more than five (5) pages are provided.

REMARKS

I. Introduction

Claims 1-20 are pending in the application. In the final Office Action dated Aug. 11, 2008, claims 1-19 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over U.S. Pat. No. 6,442,611. Additionally, claims 1-4, 6-8, 10-14, 16-18, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,634,127 ("Cloud") in view of U.S. Pat. No. 5,051,947 ("Messenger"); claims 5 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cloud in view of Messenger and what the Examiner asserts is widely-known; and claims 9 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatenable over Cloud in view of Messenger and U.S. Pat. No. 5,819,092 ("Ferguson"). Applicants request review of the final rejection.

II. Double Patenting Rejection

Claims 1-19 were rejected under the judicially created doctrine of double patenting as being unpatentable over U.S. Pat. No. 6,442,611. Upon a determination that the claims are allowable absent the double patenting rejection, Applicants will file a terminal disclaimer to overcome the double patenting rejection.

III. The Proposed Combinations Do Not Render Claims 1 and 20 Unpatentable

Independent claims 1 and 20 recite transmitting a set of data access transactions to respective applications, wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the respective applications process the set of data access transactions ***even when the respective applications do not recognize the first optional data item***. The Examiner has acknowledged that Cloud fails to teach the use of optional data items. In an effort to cure the deficiency, Messenger was cited. However, Messenger fails to teach the elements for which it was cited.

Messenger is directed to a high-speed single-pass textual search processor for locating exact and inexact matches of a search pattern in a textual stream. The

Examiner asserts that Col. 19, line 52 – Col. 20, line 10 of Messenger teaches the use of optional data items as recited in claims 1 and 20. Applicants disagree.

The portion of Messenger cited by the Examiner teaches the use of optional attributes within a search definition of a search function. For example, a search definition of a search function may be "(CAT and DOG) or (KITTEN and PUPPY)." Messenger, Col 20, line 4. Messenger fails to teach processing a set of data access transactions even when an application does not recognize an optional data item as recited in claims 1 and 20. With respect to the search definition of the search function above, it is not that an application does not recognize a portion of the search definition, but that a first condition of "CAT and DOG" or a second condition of "KITTEN and PUPPY" may satisfy the search function according to the search definition. In the final Office Action, the Examiner asserts that "it would have been obvious to one of ordinary skill in the art that should the search conditions (i.e. optional data items), such as KITTEN and PUPPY, not be recognized by the search application of Messenger, the search would continue and result in zero matches being returned." (See Office Action dated Aug. 11, 2008, page 6). Applicants note that the Examiner has cited no support for this assertion. There is no discussion in Col. 19, line 52 – Col. 20, line 10 of Messenger regarding how the search application of Messenger would process a search definition when the search application does not recognize a portion of the search condition. Moreover, the portion of Messenger cited by the Examiner fails to teach ***data access transactions comprising optional data items*** as recited in claims 1 and 20.

The proposed combination of Cloud and Messenger fails to teach transmitting a set of data access transactions to respective applications, wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data item. The Examiner has also not asserted that Ferguson teaches the above-recited element. For at least this reason, the proposed combinations of Cloud, Messenger, and Ferguson necessarily do not render independent claims 1 and 20, or any claim that depends on claim 1, unpatentable.

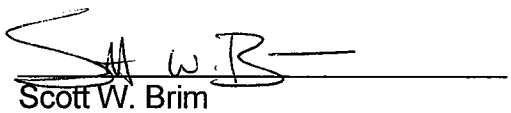
IV. The Proposed Combinations Do Not Render Claim 10 Unpatentable

Independent claim 10 recites a system wherein a plurality of applications is operative to process a set of data access transactions even when the plurality of applications do not recognize a first option data item. As discussed above in conjunction with claims 1 and 20, the proposed combination of Cloud and Messenger fail to teach this element. The Examiner has also not asserted that Ferguson teaches a system wherein a plurality of applications is operative to process a set of data access transactions even when the plurality of applications do not recognize a first option data item. For at least this reason, the proposed combinations of Cloud, Messenger, and Ferguson necessarily do not render independent claim 10, or any claim that depends on claim 10, unpatentable.

V. Conclusion

In view of the foregoing remarks, Applicants submit that the pending claims are in condition for allowance. Review of the final rejections is respectfully requested.

Respectfully submitted,



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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional) 8285-669

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Signature _____

Typed or printed
Name Scott W. Brim

Application Number:	Filed:
10/767,411	January 27, 2004

First Named Inventor: Gloria Jean Navarre et al.

Art Unit:	Examiner:
2161	Kim, Paul

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Note: No more than five(5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 51,500.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34.__

_____
Signature

Scott W. Brim
Typed or Printed Name

312 321-4200
Telephone number

December 11, 2008
Date

Note: Signatures of all inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*

☒ *Total of 1 forms are submitted.